



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

August 16, 1993
AO-93-19

The Honorable Kevin O'Sullivan
5 Tattan Farm Road
Worcester, MA 01605

Re: Political Consultation to Elected Officials

Dear Representative O'Sullivan:

This letter is in response to your April 21, 1993, letter requesting an advisory opinion regarding the legality of your legislative aide providing political consulting services to your political committee.

You have stated that your aide, Rita Turo, receives compensation for her duties as a campaign consultant to your political committee, and that she does committee related work on her own personal time, specifically at night and on weekends. Since it appears from your letter that your legislative aide is presently providing services to your political committee I will not address the details of your aide's particular situation. However, I will set forth some relevant general guidelines for legislative aides who wish to provide consulting services on their own time either at night or on weekends.¹

M.G.L. c.55, s.13 provides, in pertinent part, that:

No person employed for compensation, other than an elected official, by the commonwealth . . . shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign

1. This opinion only addresses the situation of a legislative aide providing political consulting services after the aide's regular working hours, e.g. at night or on weekends. The opinion does not address whether a legislative aide may provide such services during regular working hours if on their own personal time, e.g. as a result of personal, vacation or compensatory time.

purposes of any candidate for public office or of any political committee, or for any political purposes whatever . . .

A legislative aide is a person "employed for compensation" by the commonwealth and, therefore, subject to the restrictions against solicitation and receipt set forth in section 13. See AO-89-09. Therefore, as long as a legislative aide does not directly or indirectly solicit monies or other things of value for political purposes and provided further that such an aide also does not receive money or other things of value for political reasons, the aide's activities are not prohibited by section 13.

A legislative aide should be careful that his or her activities do not result in an indirect political solicitation. See AO-89-23 (legislative aide's consulting business involving sale of a fundraising handbook/directory is indirect solicitation prohibited by section 13), AO-89-24 (helping to build data base by supplying actual contributor information is indirect solicitation prohibited by section 13), AO-90-07 (consultant's development of fundraising strategies constitutes an indirect solicitation prohibited by section 13). Compare AO-88-25 (purely clerical tasks such as data entry of campaign contributors does not constitute indirect solicitation). Copies of these opinions are enclosed for your reference and information.

In addition, you and your aide should be aware of the provisions of M.G.L. c.55, ss.14-17 (prohibiting political solicitation in a public building and coercion of public officers or employees) as well as other restrictions relevant to public employees participating in campaign activities. For your information on these matters, I have enclosed copies of OCPF's "A Guide to Political Activity for State, County and Municipal Employees" as well as an interpretative bulletin, OCPF-IB-91-01, issued by this office.

Finally, you should also be aware that the activities of you and your aide raise questions under M.G.L. c.268A, the state's conflict-of-interest law. Specifically, I note that the Ethics Commission recently issued an opinion, EC-COI-92-7, that appears relevant to your question. A copy of that opinion is also enclosed. Therefore, I recommend that you seek guidance from the State Ethics Commission on this matter as well.

In conclusion, a legislative aide may work for the political committee of his or her legislator during the aide's own personal time. The aide should be careful, however, that political work conducted in the non-traditional work hours of nights and weekends is not conducted as part of any legislative work that the aide may also be doing during these times. As long as such an aide engages in no fundraising activity, directly or indirectly, the aide's activity as a consultant would not violate the campaign finance laws.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office if you should have additional questions regarding the campaign finance laws.

Very truly yours,


Mary P. McTigue
Director

Enclosures

cc: Andrew B. Crane, Executive Director
State Ethics Commission